

REMARKS

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1, 3-6, 9, 11, 12, and 14-17 are currently being prosecuted. The Examiner is respectfully requested to reconsider his rejections in view of the amendments and remarks as set forth below.

Allowable Subject Matter

It is gratefully acknowledged that the Examiner considers the subject matter of claims 13 and 14 as being allowable if rewritten in independent form. It is further acknowledged that the Examiner considers the subject matter of claim 9 to be allowable if amended to overcome the 35 USC §112, second paragraph. It is also further acknowledged that the Examiner considers the subject matter of claims 4, 5, 11, 15, and 16 as being allowable if rewritten to overcome the rejection under 35 USC §112, second paragraph and to include the limitations of the parent claims. Although not conceding the appropriateness of the Examiner's rejections, claims 3, 4, 14, and 15 have been rewritten in independent form and claims 4, 9, 12, and 15 have been rewritten to avoid the 35 USC §112 rejection. Accordingly, claims 3-5, 9, 11, and 14-16 are now in condition for allowance.

Claim Objections

Claims 12 and 14-17 are objected to due to two instances of informalities in claim 12. By way of the present amendment, Applicants have amended claim 12 in the manner suggested by the Examiner in order to overcome this objection. Accordingly, this objection is believed to be overcome.

Rejection Under 35 USC §112

Claims 4, 5, 9, 11, 15, and 16 stand rejected under 35 USC §112, second paragraph as being indefinite. This rejection is respectfully traversed.

In regard to claims 4 and 15, Applicants have rewritten the objectionable phrase in the same manner as claims 3 and 14 as suggested by the Examiner. Accordingly, this rejection is believed to be overcome.

In regard to claim 9, Applicants have changed the phrase to make it clear that the L-shaped body comprises the lead pipe. Accordingly, Applicants submit that this rejection is also overcome.

Rejection Under 35 USC §102

Claim 1 stands rejected under 35 USC §102 as being anticipated by JP 9-88538. This rejection is respectfully traversed.

Claim 1 has been amended to add the limitation indicated by the Examiner as being allowable subject matter. Accordingly, claim 1 now describes a lubricating apparatus for a horizontally disposed dry sump engine having a combination of elements, including a cylindrical relief valve with a longitudinal axis in a horizontal direction parallel to a horizontal longitudinal axis of a main gallery and a horizontal longitudinal axis of a crank shaft and with the relief valve having an L-shaped body with a longer longitudinal part parallel to the main gallery and a shorter transverse part connected at one end to the main gallery. Since the Examiner has indicated that the references do not show such an L-shaped body, Applicants submit that claim 1 defines over this rejection.

Rejection Under 35 USC §103

Claim 6 stands rejected under 35 USC §103 as being obvious over JP 9-88538 in view of Regueiro (USP 5,339,776). This rejection is respectfully traversed.

The Examiner admits that the Japanese reference does not show the limitation of a strainer provided in the oil tank and relies on Regueiro to show such a strainer. However, Applicants submit that claim 6 is allowable based on its dependency from claim 1. Since,

Regueiro also does not show an L-shaped body, claim 6 defines over this combination of references as well.

Claim 12 stands rejected under 35 USC §103 as being obvious over the Japanese reference in view of Prasse et al. (USP 5,472,360). This rejection is respectfully traversed.

The Examiner relies on the Prasse et al. reference to teach the use of a dry sump engine. However, Applicants have amended claim 12 in a manner similar to claim 1 to describe the L-shaped body which is part of the relief valve. Since the Examiner has indicated that this feature is not seen in the reference, Applicants submit that claim 12 is likewise allowable for the same reasons recited above in regard to claim 1.

Claim 17 stands rejected under 35 USC §103 as being obvious over the Japanese reference in view of Prasse et al. and Regueiro. This rejection is respectfully traversed.

The Examiner relies on Regueiro to teach the strainer in similar fashion to claim 6. However, Applicants submit that claim 17 is allowable based on its dependence from allowable claim 12. Accordingly, this rejection is also considered to be overcome.

No Prosecution History Estoppel

Claims 1, 3, 4, 9, 12, 14, and 15 are hereby presented in independent form. No prosecution history would apply to the

Appl. No. 09/714,144

interpretation or the limitations set forth in the independent claims and the claims that depend therefrom in view of the fact this subject matter has been continuously presented since the original filing of the present application.

Conclusion

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination. In view of this, reconsideration of the rejections and allowance of all of the claims are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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